

“(III) 13 percent of the total value of all prime contract and subcontract awards for fiscal year 2024;

“(IV) 15 percent of the total value of all prime contract and subcontract awards for fiscal year 2025 and each fiscal year thereafter.”; and

(5) in clause (v), by striking “at not less than” and all that follows and inserting the following: “at not less than—

“(I) 6 percent of the total value of all prime contract and subcontract awards for each of fiscal years 2022 and 2023; and

“(II) 7 percent of the total value of all prime contract and subcontract awards for fiscal year 2024 and each fiscal year thereafter.”.

(f) **REPEAL OF BONA FIDE OFFICE RULE.**—

(1) **IN GENERAL.**—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by striking paragraph (11).

(2) **CONFORMING AMENDMENTS.**—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) in section 8(a) (15 U.S.C. 637(a))—

(i) in paragraph (9)(B)(iv), by striking “paragraph (21)(B)” and inserting “paragraph (20)(B)”;

(ii) by redesignating paragraphs (12) through (21) as paragraphs (11) through (20), respectively;

(B) in section 15(h)(2)(E)(v) (15 U.S.C. 644(h)(2)(E)(v)), in the matter preceding subclause (I), by striking “section 8(a)(13)” and inserting “section 8(a)(12)”;

(C) in section 31(b)(2)(D)(i) (15 U.S.C. 657a(b)(2)(D)(i)), by striking “section 8(a)(15)” and inserting “section 8(a)(14)”.

(g) **8(a) WAIVERS.**—Section 8(a)(20) of the Small Business Act (15 U.S.C. 637(a)(20)), as redesignated subsection (f)(2) of this section, is amended—

(1) in subparagraph (A), in the first sentence, by striking “subparagraph (B)” and inserting “subparagraphs (B) and (F)”;

(2) in subparagraph (B)—

(A) by striking clause (iii); and

(B) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(3) by striking subparagraph (C) and inserting the following:

“(C) The Administrator may waive the requirements of subparagraph (A) if, in the case of clauses (i), (ii), and (iii) of subparagraph (B), the Administrator is requested to do so prior to the actual relinquishment of ownership or control.”; and

(4) by adding at the end the following:

“(F) If a contract or ownership and control of the concern that initially received a contract awarded pursuant to this subsection passes to another small business concern that is an eligible Program Participant, the requirements of subparagraph (A), including the termination described in the second sentence of that subparagraph, shall not apply.”.

(h) **INTERIM RULES.**—Not later than 90 days after the date of enactment of this Act, the Administrator may issue rules, including interim final rules, as necessary to carry out this section and the amendments made by this section.

SA 2444. Mrs. GILLIBRAND (for herself, Mr. MERKLEY, Mr. DURBIN, Mr. BOOKER, Mr. SANDERS, Mr. PADILLA, Mr. MARKEY, Ms. WARREN, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize

funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division A, add the following:

Subtitle F—Apprenticeship Utilization, Respectful Workplaces, and Mandatory Supportive Services

SEC. 11601. APPRENTICESHIP UTILIZATION.

(a) **DEFINITIONS.**—In this section:

(1) **APPRENTICESHIP EMPLOYMENT GOAL.**—The term “apprenticeship employment goal” means the utilization of qualified apprentices for—

(A) not less than 15 percent of the total labor hours used for construction activities for a project; or

(B) in any case where a higher qualified apprentice utilization is locally stipulated by a labor agreement or local requirement, the stipulated higher amount or percentage.

(2) **COVERED GRANT.**—The term “covered grant” means a grant under section 117 or 173 of title 23, United States Code.

(3) **QUALIFIED APPRENTICE.**—The term “qualified apprentice” means an employee participating in a registered apprenticeship program.

(4) **REGISTERED APPRENTICESHIP PROGRAM.**—The term “registered apprenticeship program” means an apprenticeship program that—

(A) is registered with the Office of Apprenticeship of the Employment Training Administration of the Department of Labor or a State apprenticeship agency recognized by such Office of Apprenticeship pursuant to the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; (29 U.S.C. 50 et seq.)); and

(B) satisfies the requirements of subpart A of part 29 and part 30 of title 29, Code of Federal Regulations or any successor regulations.

(b) **REQUIREMENT.**—

(1) **CERTIFICATION REQUIREMENT.**—To be eligible to receive a covered grant, each applicant shall include in a grant application a certification that the applicant will ensure that any contractor or subcontractor utilized in carrying out activities with the covered grant—

(A) meets or exceeds the apprenticeship employment goal;

(B) to the extent practicable, employs qualified apprentices from traditionally underrepresented populations in meeting or exceeding the apprenticeship employment goal; and

(C) notwithstanding any local-hire goals that apply, makes best efforts to meet project-wide, annually updated participation goals set by the applicant for the percentage of total work-hours that are performed at apprentice-level and journey-level by historically underrepresented populations; and

(D) tracks ongoing progress toward the participation goals described in subparagraphs (A) and (C).

(2) **EXCEPTIONS.**—The Secretary may adjust the requirements under paragraph (1) for an applicant for a covered grant if the applicant provides documentary evidence that—

(A) demonstrates a lack of availability of qualified apprentices in a specific geographic area; and

(B) makes a good faith effort to comply with the requirements.

(c) **REGULATIONS.**—The Secretary, in collaboration with the Secretary of Labor, as appropriate, may issue such regulations or other guidance, forms, instructions, and publications as may be necessary or appropriate

to carry out the requirements and oversight of this section, including—

(1) penalties for noncompliance with the requirement of subsection (b)(1)(A);

(2) reporting requirements for recipients of covered grants; and

(3) guidance on—

(A) setting participation goals under subsection (b)(1)(C) that take into account the proportion of individuals in each population in the relevant recruitment area that are qualified for the apprenticeship or trade; and

(B) ensuring that the participation goals under subsection (b)(1)(C) do not supersede any higher goals otherwise required by law, contract, or policy.

(d) **REPORT TO CONGRESS.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the use of qualified apprentices for projects carried out with covered grants that includes—

(1) the total number of labor hours fulfilled by qualified apprentices and historically underrepresented populations;

(2) the total number of qualified apprentices and historically underrepresented populations employed;

(3) the total number of covered grant recipients that met or exceeded the apprenticeship employment goal and the goals for the percentage of total workhours performed by historically underrepresented populations under subsection (b)(1)(C);

(4) best practices used by covered grant recipients that met or exceeded the apprenticeship employment goal and the goals for the percentage of total workhours performed by historically underrepresented populations under subsection (b)(1)(C); and

(5) a summary of agency oversight of the fulfillment of certification terms under this section by covered grant recipients.

(e) **PUBLIC TRANSPARENCY.**—

(1) **IN GENERAL.**—At the end of each fiscal year, the Secretary shall make available on a public website information on the use of qualified apprentices in the preceding fiscal year for each covered grant program, including—

(A) the total number of covered grant applicants that certified that the covered grant applicant would be able to meet or exceed the apprenticeship employment goal under subsection (b);

(B) the total number of covered grants provided for applicants described in subparagraph (A); and

(C) for each covered grant provided, data on the progress of the grant recipient toward meeting the requirement under subsection (b)(1)(A) and achieving participation goals under subsection (b)(1).

(2) **PROGRESS DATA.**—The Secretary shall make the information described in paragraph (1)(C) available on a public website on a monthly basis.

SEC. 11602. RESPECTFUL WORKPLACES.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a contractor or subcontractor used in carrying out a project or activity that receives funds under section 117 or 173 of title 23, United States Code, shall—

(1) make best efforts to institute respectful workplace policies; and

(2) provide effective, ongoing workplace training to create safe, respectful work sites that are free from bullying, hazing, discrimination, or harassment.

(b) **COORDINATION.**—The Secretary shall coordinate as necessary with the Secretary of Labor to promote that contractors and subcontractors described in subsection (a) comply with that subsection.

SEC. 11603. MANDATORY SUPPORTIVE SERVICES.

Section 140 of title 23, United States Code, is amended by adding at the end the following:

“(e) MANDATORY SUPPORTIVE SERVICES.—

“(1) DEFINITIONS.—In this subsection:

“(A) ELIGIBLE INDIVIDUAL.—

“(i) IN GENERAL.—The term ‘eligible individual’ means an individual described in clause (ii) that—

“(I) is participating in a project under this title; and

“(II) can demonstrate a need for supportive services, as determined by the State department of transportation.

“(ii) INDIVIDUALS DESCRIBED.—An individual referred to in clause (i) is—

“(I) a participant in a pre-apprenticeship or apprenticeship-readiness program;

“(II) an apprentice; or

“(III) a worker in a construction trade on a project under this title.

“(B) SUPPORTIVE SERVICE.—The term ‘supportive service’ means—

“(i) a pre-apprenticeship or apprenticeship-readiness program that has a written agreement with one or more registered apprenticeship programs (as defined in section 11601 of the Infrastructure Investment and Jobs Act);

“(ii) transportation;

“(iii) child care and dependent care;

“(iv) housing;

“(v) food and nutrition services;

“(vi) health and mental health care support, including substance use disorder treatment;

“(vii) access to the internet;

“(viii) needs-related payments;

“(ix) tools;

“(x) workwear;

“(xi) retention services (including support groups, mentoring, or peer networking); and

“(xii) support to pay the costs of application fees and other costs of entering registered apprenticeship programs (as defined in section 11601 of the Infrastructure Investment and Jobs Act) and required pre-employment training.

“(2) AUTHORIZATION.—The Secretary, in cooperation with the Secretary of Labor and any other Federal agency, State agency, authority, association, institution, Indian Tribe or Tribal organization, for-profit or nonprofit corporation, and any other organization or person, shall establish and carry out a program to provide supportive services to eligible individuals in order to increase State-wide capacity to provide opportunities for underrepresented groups to work in infrastructure project construction jobs, with a special emphasis on maximizing opportunities for women, people of color, and individuals with barriers to employment.

“(3) STATE OBLIGATION.—For fiscal year 2023 and each fiscal year thereafter, a State shall obligate not less than ½ of 1 percent of the amounts apportioned to the State under section 104(b) for supportive services for eligible individuals.

“(4) NONAPPLICABILITY OF TITLE 41.—Section 6101 of title 41 shall not apply to contracts and agreements made under the authority granted to the Secretary under this subsection.”.

SA 2445. Ms. ERNST submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes;

which was ordered to lie on the table; as follows:

At the end of division I, add the following:

SEC. 90009. PROHIBITION ON RECONCILIATION.

On and after the date of enactment of this Act, in the Senate and the House of Representatives, it shall not be in order to consider a bill or joint resolution reported pursuant to reconciliation instructions included pursuant to section 310 of the Congressional Budget Act of 1974 (2 U.S.C. 641) in a concurrent resolution on the budget for fiscal year 2022.

SA 2446. Mr. OSSOFF submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, strike line 5 and insert the following:

(2) in subsection (1)—

(A) by striking paragraph (2);

(B) by striking the subsection designation and all that follows through “In determining” in paragraph (1) in the matter preceding subparagraph (A) and inserting the following:

“(1) ACCOMMODATING UTILITY FACILITIES IN THE RIGHT-OF-WAY.—

“(1) DEFINITIONS.—In this subsection:

“(A) RIGHT-OF-WAY.—The term ‘right-of-way’ means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

“(B) UTILITY FACILITY.—

“(i) IN GENERAL.—The term ‘utility facility’ means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

“(ii) INCLUSIONS.—The term ‘utility facility’ includes—

“(I) alternative fueling infrastructure;

“(II) a renewable energy generation facility;

“(III) electrical transmission and distribution infrastructure; and

“(IV) broadband infrastructure and conduit.

“(2) ACCOMMODATION.—In determining”;

and

(C) by adding at the end the following:

“(3) STATE APPROVAL.—A State, on behalf of the Secretary, may approve accommodating a utility facility described in paragraph (1)(B)(ii) within a right-of-way on a Federal-aid highway.”;

(3) in subsection (o)—

On page 202, line 23, strike “(3)” and insert “(4)”.

On page 203, strike line 17 and insert the following:

the project is located on a Federal-aid highway.

“(t) VEGETATION MANAGEMENT.—Notwithstanding any other provision of law, States are encouraged to implement, or to enter into partnerships to implement, vegetation management practices, such as increased

mowing heights and planting native grasses and pollinator-friendly habitats, along a right-of-way on a Federal-aid highway, if the implementation of those practices—

“(1) is in the public interest; and

“(2) will not impair the highway or interfere with the free and safe flow of traffic.”.

SA 2447. Mr. CARPER (for himself, Mr. INHOFE, Mr. WICKER, and Ms. DUCKWORTH) submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2486, line 14, strike “*Provided*” and all that follows through “proviso:” on line 21 and insert the following: “*Provided further*, That of the amount provided under this heading in this Act, \$2,500,000,000 shall be for construction, replacement, rehabilitation, and expansion of inland waterways projects: *Provided further*, That section 102(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 33 U.S.C. 2212(a)) and section 109 of the Water Resources Development Act of 2020 (Public Law 116-260; 134 Stat. 2624) shall not apply to the extent that such projects are carried out using funds provided in the preceding proviso: *Provided further*, That in using such funds referred to in the preceding proviso, the Secretary shall give priority to projects included in the Capital Investment Strategy of the Corps of Engineers:”.

On page 2487, lines 9 through 11, strike “or section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662; 33 U.S.C. 2309a),” and insert “section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662; 33 U.S.C. 2309a), or section 165(a) of division AA of the Consolidated Appropriations Act, 2021 (Public Law 116-260).”.

On page 2489, line 3, insert “*Provided further*, That the amounts provided in the preceding proviso do not limit the Secretary of the Army, acting through the Chief of Engineers, from allotting additional funds from the amounts provided under this title in this Act for additional shore protection projects:” after “2024:”.

On page 2489, line 9, insert “*Provided further*, That in selecting projects under the previous proviso, the Secretary of the Army shall prioritize projects with overriding life-safety benefits: *Provided further*, That of the funds in the proviso preceding the preceding proviso, the Secretary of the Army shall, to the maximum extent practicable, prioritize projects in the work plan that directly benefit economically disadvantaged communities, and may take into consideration prioritizing projects that benefit areas in which the percentage of people that live in poverty or identify as belonging to a minority group is greater than the average such percentage in the United States, based on data from the Bureau of the Census:” after “purpose:”.

On page 2496, between lines 2 and 3, insert the following:

GENERAL PROVISIONS—CORPS OF ENGINEERS

SEC. 300. For projects that are carried out with funds under this heading, the Secretary of the Army and the Director of the Office of Management and Budget shall consider other factors in addition to the benefit-cost ratio